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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,199	11/25/2003	Dwayne Nelson	29757/P-262A	6785
4743	7590	07/10/2008	EXAMINER	
MARSHALL, GERSTEIN & BORUN LLP 233 S. WACKER DRIVE, SUITE 6300 SEARS TOWER CHICAGO, IL 60606			HARPER, TRAMAR YONG	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/722,199	<b>Applicant(s)</b> NELSON, DWAYNE
	<b>Examiner</b> TRAMAR HARPER	<b>Art Unit</b> 3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 12 March 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 91-94, 97 and 100-113 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 91-94, 97, and 100-113 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

Examiner acknowledges receipt of amendments/arguments filed 03/12/2008.

The arguments set forth are addressed herein below. Claims 91-94, 97, and 100-113 are pending, Claims 1-90, 95-96, 98-99, and 114-132 are canceled, and Claims 91 and 103 are currently amended.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 91-94, 100, 103-108, and 110-111 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres (US 6,254,483) in view of Burns et al (US 6,048,269).**

**Claims 91-94, 100, 103-108, & 110-111:** Acres teaches a gaming system that has a display, an input device, a currency accepting mechanism and a controller (Configuration Workstation - Fig. 1) to generate various video games (Col. 1:1-Col. 3:20). Column 2:18-28 discloses that reconfiguring the primary game and the secondary game is analogous since they are configured in the same manner. With respect to the minimum bet and the denomination for the deposit of currency please see 2:35-55 which discloses being able to vary the wager per unit time and that it is

desirable for the casino to set the cost to the player at a higher level during high demand periods and at a lower level, to attract players, during low demand periods (Fig. 4-5). Column 3:24-26 discloses that the method of configuring electronic gaming machines interconnected by a computer network to a host computer and that selected configuration parameters are implemented at each machine. The game machines can be used in a standalone configuration (**which means the EGM would inherently have to have an internal clock/time generator to monitor time and its own controller**) or network configuration and that such configuration parameters control the behavior of the electronic gaming machine (Col. 5:47-Col. 6:12, Col. 9:15-22). Acres discloses that the configuration workstation is programmed to monitor various gaming parameters such as the time the interconnected machines are played and that configuration parameters are implemented by downloading the data to respective EGM's or the configuration parameters are already installed (Col. 6:5-8, Col. 6:63-Col. 7:10). Various game parameters examples that are changed are sound effects (Col. 3:17-20 **encompasses volume**), appearance (Col. 3:17-20 **encompasses theme and brightness**), a bonus game/period (Col. 8:20-48), payback percentage (Col. 8:4, Abstract). **For example, different bonus periods are entered into the configuration workstation and at the beginning/start of each time period a computer command (time signal) is issued and in response to the command the EGM reconfigures itself, based on parameters already stored within the EGM (obtains appropriate configuration data), to change the payback percentage or paytables of the EGM (Col. 8:1-13, see above) e.g. Acres discloses initiating a**

**bonus period during a certain time of the day and turning the bonus period off during another time of the day. Therefore, in a stand alone embodiment the EGM inherently has to encompass a time generator or its own internal clock that maintains the time in order to achieve the above (Col. 6:55-62).** Acres, also clearly states the scope of the invention is to change game machine aspects/behaviors with respect to time (3:18) in addition to other such variables. Acres also teaches in the abstract that machine behaviors such as game speed, payback percentage, game appearance are changed in response to a signal from one of a number of variables, such as time (Abstract). Acres furthermore offers more support for the behaviors such as payback percentage modified based upon time (8:49-65). In regard to memory mediums used, Acres teaches using optical (4:3), and various semiconductor memories such as PROMs (5:21) and RAM (5:25) to store various instructions to implement and execute the above-taught game system. Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. Acres lacks in specifically disclosing that the controller change a minimum bet for the video gambling game in response to the time signal. **Instead, Acres states that it is desireable for the**

**casino to set the cost to the player at a higher lever (cost interpreted as the minimum wager or coin-in amount, although not explicitly stated) at a higher level during high demand periods to increase casino revenue and a lower level at low demand periods to attract players (Col. 2:50-55). It is well known in the art for casinos to change the coin-in amount or wager amount on gaming machines for purposes the purposes of Acres, above.** In an analogous game machine to Burns therein is disclosed that it is known and desirable that the use of the system in association with electronic gaming machines eliminates the necessity of having slot machines dedicated to a particular amount of wager. At the present time, the typical casino has slot machines that are dedicated to accept only one value of coin. For example, a slot machine may be a 25 cent machine, accepting only quarters; a 5 cent machine; or a dollar machine. It is very time consuming to physically change the slot machine, which may be desirable during a major event or New Years Eve, when slot machines having higher wager limits are desirable. **Acres teaches the concept of changing configuration parameters of gaming machines respective to time. Considering that both Acres and Burns teach that it desirable to change the cost of a gaming machine (minimum wager or coin-in) during certain time periods for purposes of increasing revenue and attracting more players one would be motivated to combine the teachings of Acres and Burns.** Therefore it would have been obvious to one of ordinary skill in the art to change the minimum denomination with respect to a time signal.

**Claims 101, 102, 112, & 113 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres US Patent 6,254,483 in view of Burns et al US Patent 6,048,269 as shown above in further view of Miura US Patent 6,354,943.**

**Claims 101-102 and 112-113:** Acres discloses all of the instant application, as taught above, but lacks in specifically teaching that the controller replaces at least one of the available gambling games in response to the time signal and specifically stating replacing a first bonus game for a second bonus game. Instead Acres clearly states that the game (main/bonus) is changed in accordance with a time signal and that many variables may be changed such as configuration parameters that control the behavior and appearance of the machine in response to time (3:15-20). Changing configuration parameters that control the behavior and appearance of the machine is changing the game in response to time. With respect to changing the bonus game with respect to time see above where Acres discloses that altering the main or bonus games require the same steps and are therefore analogous. The above is motivation to one skilled in the art to seek a reference that changes the games with an available game in response to time. In an analogous game machine to Miura, therein, Miura discloses changing available games with respect to a time signal (Abstract). It would be obvious to one of ordinary skill in the art to change the games in Acres with available games (main/bonus) with respect to a time signal as taught in Miura using the above motivation that the game may be changed.

***Allowable Subject Matter***

Claims 97 and 109 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed 03/12/2008 have been fully considered but they are not persuasive. In regards to Acres not disclosing a controller being programmed to change a minimum bet (or any other feature) for its own electronic gaming machine, Acres clearly discloses installing configuration parameters on individual EGM and each gaming machine being capable of operating in a stand alone mode, wherein the gaming unit monitors variables such as time and changes gaming unit configurations respective of such time (see above Col. 9:14-22). So at least in regards to the combination of Acres in view of Burns the limitation is met. Applicant argues that Acres fails to suggest changing a minimum bet, payoff percentage, brightness, and a theme for a gaming machine respective of time. Examiner respectfully disagrees due to the fact that Acres clearly discloses changing gaming parameters respective of time such as sound effects (Col. 3:17-20 **encompasses volume**), appearance (Col. 3:17-20 **encompasses theme and brightness**), a bonus game/period (start and end time Col. 8:20-48), payback percentage (Col. 8:4, Abstract). In regards to changing volume sound effects encompass such a limitation, in regards to changing brightness and theme game appearance encompasses such limitations, and in regards to payback percentage and minimum bet please refer to Acres in view of Burns. At least in the above regards the limitations are met. In regards to replacing a first bonus game for a second bonus

game respective of time. Acres clearly discloses that primary games are known to have secondary games and the configuration problems exist in both the primary and secondary games. Acres goes on to disclose change configurations parameters respective of time. At least in this regards in would have been obvious to one of ordinary skill in the art to modify Acres to change games, whether primary or secondary, respective of time as taught by Muira. In regards to claims 97 and 109, Examiner acknowledges these claims to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/  
Primary Examiner  
Art Unit 3714

TH

7/7/08